



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 15, 2003

H.R. 3140 **Fairness to Contact Lens Consumers Act**

*As ordered reported by the House Committee on Energy and Commerce
on October 1, 2003*

H.R. 3140 would establish procedures for issuers of contact lens prescriptions to follow concerning patients' access to prescriptions. It would direct the Federal Trade Commission (FTC) to develop regulations to implement the bill and to complete a study on competition in the sale of prescription contact lenses. Based on information provided by the FTC, CBO estimates that implementing H.R. 3140 would have an insignificant effect on spending subject to the availability of appropriated funds. The bill would not affect direct spending or revenues.

H.R. 3140 contains two intergovernmental mandates as defined by the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the resulting costs would not be significant and would not exceed the threshold established in UMRA (\$59 million in 2003, adjusted annually for inflation).

First, the bill would preempt state law in the five states that have stricter requirements for prescription verification, but CBO estimates that the preemption would impose no costs on those states. Second, the bill would require prescribers of contact lenses—including some who may work for public entities—to provide the patient a copy of the prescription and to verify contact lens prescriptions to third-party manufacturers. Since the bill would simply require eye care professionals to return the call of a third-party manufacturer if the prescription the manufacturer has is wrong, CBO estimates that the bill would impose no significant costs on those entities. In total, the costs of the mandates in the bill would fall substantially below the threshold established in UMRA.

H.R. 3140 would also impose private-sector mandates as defined in UMRA on sellers and prescribers of contact lenses. Prescribers, as defined in the bill, include ophthalmologists, optometrists, or other persons permitted under state law to issue prescriptions for contact lenses. CBO expects that the incremental costs of those mandates would fall below the annual threshold for the private sector established by UMRA (\$117 million in 2003, adjusted annually for inflation).

In order to sell contact lenses, sellers would have to obtain prescriptions from patients or prescribers directly or by facsimile; prescriptions received by other methods would require verification from the prescriber. The bill also would require sellers to maintain records for all prescription verifications that are communicated by telephone or electronic mail.

In addition, H.R. 3140 would require the prescriber, after a contact lens fitting, to provide a contact lens prescription to the patient or to provide or verify the prescription to any person designated to act on behalf of the patient. The bill also would require prescribers, when requested by sellers of contact lenses, to verify contact lens prescriptions.

According to the FTC, roughly two-thirds of states already require some form of prescription release. Currently, many of the larger sellers of contact lenses voluntarily comply with the verification and recordkeeping requirements of the bill. Furthermore, according to industry sources and the FTC, the additional costs for the sellers and prescribers not now in compliance with the requirements of the bill would be small. CBO, therefore, expects that the incremental cost of all the private-sector mandates in the bill would fall below UMRA's threshold.

The CBO staff contacts for this estimate are Melissa E. Zimmerman (for federal costs), Sarah Puro (for the impact on state and local governments), and Jean Talarico (for the impact on the private sector). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.